



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,972	10/26/2001	Randall G. Richards	BBA1-023	3450

7590 10/29/2003
Richard R. Muccino
758 Springfield Avenue
Summit, NJ 07901

EXAMINER

LUONG, SHIAN TINH NHAN

ART UNIT	PAPER NUMBER
----------	--------------

3728

DATE MAILED: 10/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/002,972

Applicant(s)

Richards et al.

Examiner

Shian T Luong

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 20-32, 35 and 36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19, 33-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 18) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____.

Election/Restrictions

1. Claims 10-36 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant timely traversed the restriction requirement in Paper No. 4.

Applicant argued that the search and examination of an entire applicant could be made without serious burden and hence applicant's product and method claims are not distinct inventions and restriction is not proper. After review of Examiner Madsen's restriction, regrouping of the claims is required. The restriction should have been the division of Species I (Figure 1), Species II (Figure 2) and Species III (Figure 3). Because applicant has already elected the first set of claims that includes the wipes and two other substances within the container, the examiner will examine Figures 1 and 2 together at this time. But the examiner will reserve the right to further divide Figures 1 and 2 if applicant further defines the distinction between the two embodiments. Hence, claims 1-17, 19 and 33-34 will be examined together while claims 18, 20-32 and 35-36 have been withdrawn as non-elected embodiment.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first and second compartment attached to each other by more than two common sides must be shown or the features canceled from claim 6. No new matter should be entered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. 112, first paragraph, and 37 C.F.R.

1.71(a) and (b) as failing to provide an adequate written description of the invention, and failing to adequately teach how to make and/or use the invention. The specification does not disclose the first and second compartment attached to one another on more than two common sides.

Clarification is required and no matter is permitted.

4. Claim 6 is rejected under 35 U.S.C. 112, first paragraph, for the reasons set forth in the objection to the specification.

5. Claims 6, 33-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The specification does not disclose the first and second compartment attached to one another on more than two common sides. In claim 33, the first occurrence of "the tearable seal" lacks proper antecedent basis. Also in claim 34, the tearable seal appears to be of the same seal as claim 33.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3728

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4,7-9, 11, 13, 19, 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Kasianovitz et al. (US 5,616,337). Kasianovitz et al. discloses a package with two chambers. One chamber holds a liquid, while the other chamber holds a pad and powder or pad and liquid. A breakable seal 18 allows the mixture of the two contents after it is ruptured. The powder that dissolves in the liquid would produce a foaming reaction.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kasiznovitz et al. in view of Stupar et al.(US 5,353,927). Kasizonovitz et al. does not show more than one point of attachments. However, Stupar et al. suggests, for example, arrangement of compartments wherein the first and second compartments are connected at two locations for the mixing of the contents. Such an arrangement allows the compartments to be sealed tight to one another.

6. Claims 6, 10, 12-17, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kasiznovitz et al. in view of Official Notice. Although Kasianovitz et al. only shows one common side of attachment, it would have been obvious to arrange the compartments in such manner to have multiple connecting points for the compartments to ensure the sealability of the

Art Unit: 3728

sides. With respect to the different contents and reactions, it would have been obvious to provide the desired articles or agent within the respective compartments to produce the desired result.

With respect to the tearable seal, although the tearable seal shown in Kasainovitz et al. does not extend to the first compartment, it is conventionally known to provide tearable seal within the compartment to allow dispensing of that particular substance only.

Conclusion

7. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08. The **Group clerical receptionist number is (703) 308-1148** or the **Tech Center 3700 Customer Service Center number is (703) 306-5648**.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Donna Monroe at (703) 308-2209.

For applicant's convenience, the Group Technological Center FAX number is (703) 872-9302 and for After Final Amendment the number is (703) 872-9303. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

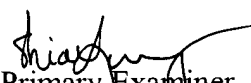
Application/Control Number: 10/002,972

Page 6

Art Unit: 3728

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (703) 308-2039. The examiner can normally be reached on T-F from 7:00am to 4:00pm EST.

STL
October 23, 2003


Primary Examiner
Shian Luong
Art Unit 3728